

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

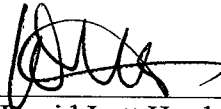
Notice of Proposed Rulemaking

IURC RM #06-02

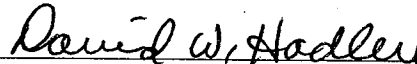
LSA #06-45

The Indiana Utility Regulatory Commission (the "Commission"), pursuant to IC 8-1-1-3(g) and IC 8-1-2-34.5, hereby proposes to amend 170 IAC 7-6 regarding disconnection of a local exchange carrier by another local exchange carrier, notice of bankruptcy, relinquishment of service, and revocation of certificate of territorial authority, with special provisions for a local exchange carrier that is a provider of last resort. The Commission shall hear public comments on the attached proposed rule on May 25, 2006, at 9:30 a.m., E.D.T. (local time) in Room CC32, of the Indiana Government Center South, 302 W. Washington Street, Indianapolis, Indiana.

The Secretary of the Commission is hereby directed to maintain five (5) copies of the proposed rule continuously on file in the Commission Offices for public inspection, and forward copies of the attached proposed rule to the Indiana Legislative Services Agency publication in the Indiana Register.



David Lott Hardy, Chairman



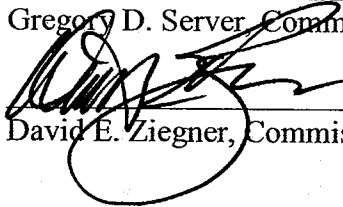
David W. Hadley, Commissioner

ABSENT

Larry S. Landis, Commissioner

ABSENT

Gregory D. Server, Commissioner



David E. Ziegner, Commissioner

ATTEST:



Brenda A. Howe, Acting Secretary to the Commission

Date: APR 06 2006

Title 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule  
LSA Document # 06-45

DIGEST

Amends 170 IAC 7-6 regarding disconnection of a local exchange carrier by another local exchange carrier; notice of bankruptcy; relinquishment of service; and revocation of certificate of territorial authority. Effective thirty (30) days after filing with the Secretary of State. Statutory Authority: IC 8-1-1-3(g) and IC 8-1-2-34.5.

170 IAC 7-6-1  
170 IAC 7-6-2  
170 IAC 7-6-3  
170 IAC 7-6-4  
170 IAC 7-6-5  
170 IAC 7-6-6

SECTION 1. 170 IAC 7-6-1 IS AMENDED TO READ AS FOLLOWS:

**Rule 6. Disconnection of a Local Exchange Carrier by Another Local Exchange Carrier; Notice of Bankruptcy; Relinquishment of Service; Revocation of Certificate of Territorial Authority**

**170 IAC 7-6-1 Policy and scope**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 1. (a) This rule is intended to establish a procedure for providing notice to customers when an ~~alternative~~ local exchange carrier is disconnected from an ~~incumbent~~ another local exchange carrier, **when a local exchange carrier files for bankruptcy, or when a local exchange carrier relinquishes all or part of its services or operating authority, with special provisions for a local exchange carrier that is a provider of last resort.**

(b) This rule supersedes any written contractual provisions that may exist pertaining to disconnection of service between local exchange carriers. (*Indiana Utility Regulatory Commission; 170 IAC 7-6-1; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144*)

SECTION 2. 170 IAC 7-6-2 IS AMENDED TO READ AS FOLLOWS:

**170 IAC 7-6-2 Definitions**

Authority: IC 8-1-1-3; IC 8-1-32.4

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 2. The following definitions apply throughout this rule:

- (1) "**Alternative Competitive** local exchange carrier" or "~~ALEC~~" "**CLEC**" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange that does not qualify as an incumbent local exchange carrier under subdivision (2).
- (2) "Incumbent local exchange carrier" or "ILEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:
  - (A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or
  - (B) is a person or entity that on or after February 8, 1996, became a successor or assign of a member described in clause (A).
- (3) "**Local exchange carrier**" or "**LEC**" means a provider of switched telecommunications service that carries calls originating and terminating within the local calling area.
- (4) "**Provider of last resort**" means a provider that:

(A) holds a certificate of territorial authority issued by the commission; and  
(B) is required to offer local exchange service throughout a defined geographic area.  
(Indiana Utility Regulatory Commission; 170 IAC 7-6-2; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144)

SECTION 3. 170 IAC 7-6-3 IS AMENDED TO READ AS FOLLOWS:

**170 IAC 7-6-3 Notice to the commission; notice to customers**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) When an ~~ILEC~~ a LEC serves a notice of disconnection upon a ~~ALEC~~ another LEC, the ~~ILEC~~ disconnecting LEC shall serve simultaneous notice of the disconnection upon the commission. The ~~ILEC~~ disconnecting LEC shall serve notice of disconnection to on the LEC that is subject to disconnection ~~ALEC~~ and the commission via certified mail, return receipt requested. Notice to the commission shall be made to the telecommunications division director via personal service or certified mail, return receipt requested.

(b) Five (5) business days after the notice from the ~~ILEC~~ disconnecting LEC is mailed, to the ~~ALEC~~, the ~~ALEC~~ LEC that is subject to disconnection must provide the commission, in writing, with one (1) of the following:

- (1) Proof of payment.
- (2) The ~~ALEC's~~ LEC's customer list, including each customer's name, address, and telephone number. Absent a showing to the contrary, the ~~ALEC's~~ LEC's customer list shall be deemed confidential on a preliminary basis by the commission.
- (3) Reasonable grounds for nonpayment to the ~~ILEC~~ disconnecting LEC.

(c) If the ~~ALEC~~ LEC subject to disconnection fails to provide the commission with proof of payment under subsection (b)(1) or reasonable grounds for nonpayment to the ~~ILEC~~ under subsection (b)(3), within ten (10) calendar days after the disconnection notice is sent from the ~~ILEC~~, the ~~ALEC~~ LEC subject to disconnection must mail notice of disconnection to its customers. The ~~ALEC~~ must and provide proof of mailing the customer disconnection notice to the commission. The ~~ALEC's~~ LEC's notice of disconnection to its customers must include the following:

- (1) A statement that the customer must contact the telephone service provider of his or her choice for new service.
- (2) The last date of guaranteed service by the ~~ALEC~~ LEC.
- (3) The address and toll-free number of the commission and the utility consumer counselor.
- (4) A statement notifying the customer that if the customer fails to choose a new local exchange carrier on or before the date of disconnection from the ~~ALEC~~ LEC, the customer will be without telephone service.

(d) If the ~~ALEC~~ LEC subject to disconnection fails to notify its customers or show proof of mailing disconnection notices as required by subsection (c), the commission may:

- (1) initiate an investigation or other procedure in accordance with IC 8-1-2-58, IC 8-1-2-69, or other related statutes; and
- (2) request the disconnecting LEC to provide any customer identifying information it may have, which shall be treated as confidential on a preliminary basis by the commission.

(e) ~~An ILEC~~ A LEC may not disconnect the ~~ALEC~~ another LEC until thirty (30) business calendar days after the ~~ILEC~~ sends the disconnection notice to the ~~ALEC~~ is sent pursuant to subsection (a) of this section.

(f) This rule shall not prohibit an ~~ALEC~~ a LEC from rescinding its disconnection notice to customers after complying with subsection (c) if the ~~ALEC~~ LEC makes payment to the ~~ILEC~~ disconnecting LEC prior to its disconnection. The LEC shall notify the commission immediately if it has rescinded its customer disconnection notice.

(g) This rule shall not apply where the disconnecting LEC is without notice of the following:

- (1) the provider being disconnected is reselling the retail services of the disconnecting LEC to third parties, or
- (2) the provider being disconnected is using the retail facilities of the disconnecting LEC to serve customers.

SECTION 4. 170 IAC 7-6-4 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-6-4 Notice of Bankruptcy**

Authority: IC 8-1-1-3; IC 8-1-32.4

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 4. (a) If a LEC, the utility holding company of a LEC, or the corporate parent of a LEC is the subject of a bankruptcy proceeding, the LEC shall provide the commission with written notice and a complete copy of the bankruptcy petition within sixty (60) calendar days of the date the bankruptcy petition is filed.

(b) Notice to the commission shall include at least the following:

(1) the number of customers the utility has in Indiana, which shall be deemed confidential on a preliminary basis by the commission;

(2) the types of services provided;

(3) the name, mailing address, email address, and telephone number of any bankruptcy trustee;

(4) the name, mailing address, email address, and telephone number of any attorney representing the utility in bankruptcy; and

(5) the name, mailing address, email address, and telephone number of a designated contact person at any company proposing to acquire the assets of the utility.

(c) If the LEC seeking bankruptcy protection is a provider of last resort, the LEC must provide the commission and each affected customer and wholesale provider written notice a minimum of sixty (60) calendar days prior to filing a bankruptcy petition with a court. The written notice to the commission must be provided on the form prescribed by the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 7-6-4)*

SECTION 5. 170 IAC 7-6-5 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-6-5 Relinquishment of Service by a LEC**

Authority: IC 8-1-1-3; IC 8-1-2.6; IC 8-1-32.4

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 5. A LEC that intends to cease providing services in all or part of its operating area or relinquish some or all of its Indiana certificate of territorial authority shall provide the following:

(a) Written notice to the commission, the utility consumer counselor, and any LEC from which it purchases services for resale, unbundled network elements, or with whose network the LEC that is ceasing operations or relinquishing authority is interconnected, sent at least sixty (60) calendar days prior to the date of cessation of operations or relinquishment. The notice to the commission shall include a customer list, which shall be deemed confidential on a preliminary basis by the commission. If the LEC that is ceasing operations or relinquishing authority is a provider of last resort, the notice to the commission must be provided on the form prescribed by the commission.

(b) At least sixty (60) calendar days prior to the date of cessation of operations or relinquishment, a notice to affected customers, which must include the following:

(1) A statement that the customer must contact the telephone service provider of his or her choice for new service.

(2) The last date of guaranteed service by the LEC.

(3) The address and toll-free number of the commission and the utility consumer counselor.

(4) A statement notifying the customer that if the customer fails to choose a new local exchange carrier on or before the date of cessation of operations or relinquishment, the customer will be without telephone service.

(5) At least one (1) toll free customer service telephone number maintained by the LEC that is ceasing operations or relinquishing authority to facilitate the continuation of service and the transition of

customers to other providers, if the LEC that is ceasing operations or relinquishing authority is a provider of last resort.  
(Indiana Utility Regulatory Commission; 170 IAC 7-6-5)

SECTION 6. 170 IAC 7-6-6 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-6-6 Revocation of Certificate of Territorial Authority**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 6. (a) A LEC has an affirmative duty to provide the commission with current contact information and to provide notice as required under this rule.

(b) The commission may revoke the certificate of territorial authority of a LEC for failure to follow regulatory requirements, including but not limited to the following:

- (1) failure to provide notice as required under this rule;
- (2) failure to pay the public utility fee assessed pursuant to IC 8-1-6;
- (3) failure to respond to a commission request for information, including surveys and data requests;
- (4) failure to respond to inquiries by the commission regarding relinquishment of service, cessation of operation, or service disconnection;
- (5) administrative dissolution of the LEC's corporate authority by the Indiana secretary of state;
- (6) dissolution in bankruptcy; or
- (7) cessation of operations or relinquishment of services in Indiana.

(c)(1) Revocation of a LEC's certificate of territorial authority pursuant to this section may be initiated by any of the following:

- (A) the commission on its own motion;
- (B) upon the request of the office of the utility consumer counselor;
- (C) upon the request of any other carrier providing services to the LEC; or
- (D) by the voluntary application of the LEC.

(2) The revocation of the LEC's certificate of territorial authority, in whole or in part, shall be made by order of the commission notifying the LEC of the commission's intent to revoke the LEC's certificate of territorial authority within ten (10) calendar days. In the absence of a request for a hearing pursuant to IC 8-1-2-88(d) by the LEC or any other interested party, the revocation shall be effective after ten (10) calendar days. The LEC may cure any of the items listed in subsection (b) of this section, which, at the commission's discretion, may result in the termination of the revocation proceeding.

(3) In addition to revoking the LEC's certificate of territorial authority, the commission may issue any additional orders it deems necessary to protect the public interest pursuant to IC 8-1-2-113.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-6)

SECTION 7. SECTIONS 1 through 6 of this document take effect thirty (30) days after filing with the secretary of state.

**Notice of Public Hearing**

Under IC 4-22-2-24, notice is hereby given that on May 25, 2006, at 9:30 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room CC32, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on proposed amendments to the rule on disconnection of a local exchange carrier by another local exchange carrier, notice of bankruptcy, relinquishment of service, and revocation of certificate of territorial authority.

No requirements or costs are imposed on a regulated entity that are not expressly required by Indiana statute or federal law. Indiana Code Section 8-1-2-4 requires every public utility to furnish reasonably adequate service and facilities. Based on Indiana Utility Regulatory Commission records, it is estimated that no more than sixty-two (62) small businesses in the telecommunications industry would be affected by this rule. The information to be provided under this rule is readily accessible to the affected public utilities and the cost of providing such information is minimal. In addition, over the past three (3) years, over \$1.3 million was owed to local exchange carriers by other

*local exchange carriers that were subject to disconnection. By setting out defined procedures with more reasonable time deadlines, this rule would save the disconnecting local exchange carriers valuable time and money, thereby reducing whatever minimal fiscal impact may result from this rule.*

*Copies of this rule are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E306 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

David Lott Hardy  
Commission Chairman  
Indiana Utility Regulatory Commission